

REMARKS

This paper is responsive to the Final Office Action dated November 2, 2005. Claims 1 - 9 are pending in this application.

Claims 1 - 5 and 7 - 9 rejected. Claim 6 is objected to. Reconsideration of the final rejection is respectfully requested in light of the foregoing amendments and following remarks. These remarks follow the order of the Office Action beginning at page 2.

Drawings

No drawing amendments were filed or received on August 12, 2005. The amendment filed on August 12, 2005 had attached to it two sketches showing light traveling into and out of dichroic crystals of Figures 1 and 2. These are identified in the Remarks as sketches showing Applicant's Figure 1B with two additional colors R and B for the Examiner's consideration (see Amendment filed August 12, 2005, top of page 7). It is respectfully submitted that it is very clear from the amendment that these drawings are not replacements. These drawings are sketches that are part of the Remarks as stated.

Claim Rejections - 35 USC § 103

The Examiner has repeated the earlier Office Action with the

exception of an argument which appears at page 3, beginning at line 9 and continuing through line 14 which begins:

"and as described in applicant's arguments dated 8/12/2005 on page 6 where viewed from the top (such as the side for red 26R) the light enters the prism perpendicularly and when entering from the side as shown in figure 2 of Aritake it enters obliquely (note that the terms top and side are relative terms and have been reversed by the office from that described in applicant's arguments. See *In re Japiske* 86 USPQ 70 (CCPA 1950)"

The Examiner further argues in the section entitled "Response to Arguments" as follows:

"Applicant's arguments filed 8/12/2005 have been fully considered but they are not persuasive.

Applicant argues that the new claim language reads over Aritake, however as amended above Aritake does teach the new claim limitations. Applicant has used the terms 'top' and 'side' to differentiate applicant's invention from that of Aritake, however the terms 'top' and 'side' are relative terms that in order to impart any particular limitation must be defined in the claim.' Although applicant defines them in the arguments, applicant does not define the terms 'top' and 'side' in the actually claims. Accordingly the office has chosen to interpret them to be the opposite sides that applicant interpreted them to be, which as acknowledged by applicant does meet applicant's claim language. Accordingly applicant's argument with regards to 'top' and 'side' is not persuasive, since it would be obvious to reverse them. See *In re Dailey* 149 USPQ 47 (CCPA 1966) and *In re Japiske* 86 USPQ 70 (CCPA 1950)."

Initially, Applicant wishes to state that the *Japiske* case and the *Dailey* case cited by the Examiner do not relate to "relative terms that have been reversed." Instead, each of these cases relates to whether or not it is obvious to relocate a part from one point to another in a structure. The issue in *Japiske*

was relocation of a switch. Applicant has not relocated structure, as has *Japiske*. Instead, Applicant inputs light at a different angle and in a different way to the dichroic crystal that is simply not shown in the prior art at all. Similarly, the issue in *Dailey* was whether configuration of a container was a matter of choice. Applicant has not just changed configuration, Applicant has changed the angle at which light enters a dichroic crystal.

In the prior art, the light enters in a plane and exits in the same plane. In Applicant's invention, light enters in a single plane and exits in three different planes. The claims define the light entry which results in exiting in three different planes.

In the portion of the Office Action quoted above, the Examiner argues that it would be obvious to reverse top and side. It is presumed that the Examiner is referring to the use of terminology, not structure.

In Applicant's claims, Applicant claims the top and side. This top and side must be interpreted in light of Applicant's specification. It is well understood that claims are interpreted in light of specifications.

In Applicant's specification, it is stated that Figures 1A and 1B are a side view and a top view, respectively, each schematically explaining the relationship between the cross dichroic prism in accordance with the embodiment of the present

invention and flux incident thereon (see paragraph [0019]). The top view (Figure 1B) shows the cross of the dichroic prism. The top view defines the orientation of the prism cross. This defines top and side in the claims. The words 'top' and 'side' in the claims cannot be semantically twisted around, as the Examiner would argue. In essence, the Examiner seems to argue that cubes have six sides and that any side may be a top or a side. However, this is not in accordance with Applicant's claims when read in light of the specification. In Applicant's Figure 1B, there is shown a top view of the dichroic cross prism (16). The Examiner should note dichroic cross prism (16) shows the cross with the horizontal light beam running directly through the center of the cross. The cross defines the orientation of the prism. This is what is meant by top view in Applicant's claim language.

Next, in Figure 1A there is shown the side view. The side view is a side view of Figure 1B. This side view shows the light coming in at an angle with respect to the side. Therefore, looking at Figures 1A and 1B, it is seen that the light enters at an angle from the side and comes straight in perpendicular when viewed from the top.

On the other hand, the Aritake '429 reference in Figure 2 shows exactly the opposite. Figure 2 defines the orientation of the prism. Figure 2 shows the cross. The cross, therefore, is the top view of Aritake's prism. A word search of '429 shows the

words "top" and "bottom" are not present at all. However, the '429 reference does use the terminology "side". For instance, '429 in Figures 21A and 21B shows the side view (21A) and a plan view (21B). "Plan" is considered to be "top". The same is true for Figures 22A and 22B. However, should there be any doubt as to the convention, '429 also refers to the crystal in Figure 25A and 25B where 25B is described as a side view. Figure 25A is a plan view. The Examiner should note that the plan view has the cross. The plan view, as noted above, is the same as a top. Similarly, in Figures 27A/27B and 29A/29B, '429 shows the side view as the side not having the cross. This shows that the convention used by '429 and that used by Applicant is the same. Namely, the side view of the dichroic crystal does not show the cross, and that the top view or plan view does.

Attached is a copy of a page from Webster's Third International Dictionary. The definition of a plan view is a top view in the English language. Therefore, '429, in referring to plan views, is referring to top views in accordance with the convention used to describe dichroic crystals as is consistent with Applicant's specification and claims use of the terms "top" and "side".

The Examiner cannot merely rename sides of a cube first without reference to Applicant's specification that defines the top and the side, and secondly, in contravention of the convention used by both Applicant and the '429 prior art.

As pointed out in the previous response filed on August 12, 2005, Figure 2 of '429 shows the light coming in at angles in the top or plan view. Applicant claims that the light comes in perpendicular as viewed from the top.

In view of the foregoing, it is respectfully submitted that the application is now in condition for allowance, and early action in accordance thereof is requested. In the event there is any reason why the application cannot be allowed in this current condition, it is respectfully requested that the Examiner contact the undersigned at the number listed below to resolve any problems by Interview or Examiner's Amendment.

Respectfully submitted,



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